

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

YUNAE CHI,

Plaintiff,

v.

MARK E. ZUCKERBERG, et al.,

Defendants.

No. C-12-3498 MMC

**ORDER DISMISSING COMPLAINT FOR
LACK OF SUBJECT MATTER
JURISDICTION; AFFORDING PLAINTIFF
LEAVE TO FILE AMENDED COMPLAINT**

Before the Court is plaintiff Yunae Chi's Verified Shareholder Derivative Complaint, filed July 5, 2012.¹ Having read and considered the complaint, the Court, as discussed below, finds the complaint is subject to dismissal for lack of subject matter jurisdiction.

In her complaint, which she describes as a "shareholder derivative action brought on behalf of [Facebook, Inc.]," (see Compl. ¶ 1), plaintiff brings five causes of action, titled, respectively, "Breach of Fiduciary Duty," "Gross Mismanagement," "Contribution and Indemnification," "Abuse of Control," and "Waste of Corporate Assets." Plaintiff alleges that the district court, pursuant to 28 U.S.C. § 1332(a)(1), has diversity jurisdiction over her claims. (See Compl. ¶ 4.) No other basis for jurisdiction is alleged.

"Diversity jurisdiction requires complete diversity between the parties – each defendant must be a citizen of a different state from each plaintiff." In re Digimarc Corp.

¹The Court did not receive a chambers copy of the complaint until August 21, 2012.

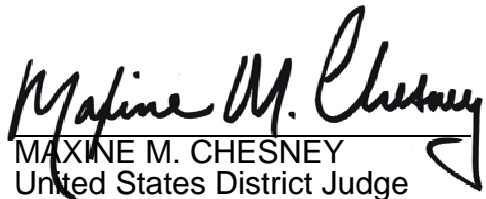
1 Derivative Litig., 549 F.3d 1223, 1234 (9th Cir. 2008). Here, plaintiff alleges she is a citizen
2 of California (see Compl. ¶ 6), and that a number of the defendants likewise are citizens of
3 California (see Compl. ¶¶ 8-11, 14). Consequently, plaintiff fails to allege any facts to
4 support a finding that complete diversity exists, and, indeed, alleges facts that foreclose
5 any such finding.

6 Accordingly, plaintiff's complaint is hereby DISMISSED for lack of subject matter
7 jurisdiction. See Fed. R. Civ. P. 12(h)(3).

8 Should plaintiff be of the view that she can allege facts to support another basis for
9 jurisdiction, plaintiff shall file any amended complaint no later than September 7, 2012.

10 **IT IS SO ORDERED.**

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12 Dated: August 22, 2012

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MAXINE M. CHESNEY
United States District Judge